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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,903	08/28/2001	Peter Kamvysselis	EMS-02001	5153

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EXAMINER

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
	2141

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/940,903	KAMVYSELIS, PETER	
	Examiner	Art Unit	
	Kristie Shingles	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 August 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-62 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-62 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 August 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/24/01</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claims 1-62 are pending.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 130. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 12 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by *Fair* (USPN 6,718,481).

Per claims 1, 12 and 23 (differs only by statutory class) *Fair* teaches a method of transmitting data from a source to a destination, comprising:

- receiving the data from the source (col.6 lines 46-57; one processor receives data from another processor); and
- providing the data to the destination using a network, wherein the data is acknowledged to the source as being successfully received at the destination prior to all of the data being provided to the network (col.6 line 58-col.7 line 64; system incorporates use of acknowledgements from the receiving storage processor of a successfully data receipt prior to data being sent to the network).

4. Claims 30-32, 37, 41-43, 48, 52-54 and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by *Yanai et al* (USPN 6,502,205).

a. Per claims **30, 41** and **52** (differs only by statutory class) *Yanai et al* teach a method of transferring data from a first storage device to a second storage device, comprising;

- synchronously transferring the data from the first storage device to a first buffer device (Abstract and col.7 line 48-col.8 line 38; in the dual data storage system data may be synchronously transferred between the host and storage volumes/buffers);
- asynchronously transferring the data from the first buffer device to a second buffer device (Abstract, col.8 line 39-col.9 line 8, col.9 line 59-col.10 line 14 and col.10 line 59-col.11 line 10; data may be asynchronously transmitted to the secondary storage system); and
- synchronously transferring the data from the second buffer device to the second storage device, wherein the first buffer device acknowledges successful transfer of the data to the first storage device prior to the first buffer device completing transfer of the data to the second buffer device (Fig.21 and col.9 line 5-col.10 line 58; data may be synchronously transmitted to the secondary storage and receipt acknowledgement signifying a successful transfer).

b. Per claim **31**, *Yanai et al* teach the method of Claim 30, farther comprising: providing the data from the first buffer device to the second buffer device using a network (col.8 lines 24-38; data is capable of being transmitted from the first storage device to the secondary storage device via a network).

c. Claims **42** and **53** are substantially equivalent to claim 31 and are therefore rejected under the same basis.

d. Per claim **32**, *Yanai et al* teach the method of Claim 31, wherein the first buffer device acknowledges successful transfer of the data to the first storage device prior to all of the data being provided to the network (col.10 lines 15-28; primary storage system acknowledges successful transmission of data to the primary host computer before all of the data is sent to the network).

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e. Claims **43** and **54** are substantially equivalent to claim 32 and are therefore rejected under the same basis.

f. Per claim **37**, *Yanai et al* teach the method of Claim 31, wherein the second storage device receives the data in a first format different from a second format used to transmit the data over the network (col.11 lines 20-57; a pending format change is indicated and maintained when transmitting between the two storage devices).

g. Claims **48** and **59** are substantially equivalent to claim 37 and are therefore rejected under the same basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims **2-6, 8-10, 13-17, 19-21, 24-28, 33-35, 38, 39, 44-46, 49, 50, 55-57, 60** and **61** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Fair* and *Yanai et al* in view of *Black* (USPN 6,760,828).

a. Per claim **2**, *Fair* teaches the method of claim 1 as applied above, yet fail to distinctly teach the method, according to claim 1, wherein the source is a primary storage device. However, *Black* teaches the implementation of a data storage system, with a plurality of storage elements, wherein one system may function as the primary storage device (col.16 lines 8-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a storage device as the source of the data transmission for the purpose of transmission and manipulation of the archived/collected data within the storage device. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

b. Claims **13** and **24** are substantially equivalent to claim 2 and are therefore rejected under the same basis.

c. Per claim **3**, *Fair* teaches the method of claim 1 as applied above, yet fail to distinctly teach the method, according to claim 1, wherein the destination is a secondary storage device. However, *Black* teaches the implementation of a data storage system wherein one system may function as a secondary device (col.17 lines 30-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to signify a secondary storage device as the destination of the data transmission for the purpose of transmission and manipulation of a data mirror system or a system wherein secondary storage is utilized for back-up storage or for specific genres of collected data. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

d. Claims **14** and **25** are substantially equivalent to claim 3 and are therefore rejected under the same basis.

e. Per claim **4**, *Fair* teaches the method of claim 1 as applied above, yet fail to distinctly teach the method, according to claim 1, wherein the data is provided from the source in a first format and is provided to the network in a second format that is

different from the first format. However, *Black* teaches providing data in different formats when transmitting data to a different storage device (col.7 lines 1-19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide data from the source in a different format for the purpose of extending communication to various devices in different formats. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

f. Claims **8, 15, 19, 26, 33, 44** and **55** are substantially similar to claim 4 and are therefore rejected under the same basis.

g. Per claim **5**, *Black* teaches the method, according to claim 4, wherein the first format is RDF format (col.9 lines 8-22, col.16 lines 23-29 and col.17 lines 13-50; storage system makes use of RDF linking which implies data transmission in the RDF format).

h. Claims **9, 16, 20, 27, 34, 38, 45, 49, 56** and **60** are substantially similar to claim 5 and are therefore rejected under the same basis.

i. Per claim **6**, *Black* teaches the method, according to claim 5, wherein the second format is TCP/IP (col.31 lines 37-45; system allows for TCP/IP network transmission which implies the TCP/IP format).

j. Claims **10, 17, 21, 28, 35, 39, 46, 50, 57** and **61** are substantially similar to claim 6 and are therefore rejected under the same basis.

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7. Claims **7, 11, 18, 22, 29, 36, 40, 47, 51, 58** and **62** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Black* and *Yanai et al* in view of *Lewis* (USPN 6,442,169).

a. Per claim **7**, *Black* teaches the method according to claim 5 as applied above, yet fails to distinctly teach the method, according to claim 5, wherein the second format is UDP. However, *Lewis* teaches sending data in the UDP format as a second format between two nodes (col.5 lines 20-33, col.5 line 57-col.6 line 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide data in the UDP format for the purpose of benefiting from and extending communication techniques to incorporate a reliable datagram host-to-host protocol such as UDP. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

b. Claims **11, 18, 22, 29, 36, 40, 47, 51, 58** and **62** are substantially similar to claim 7 and are therefore rejected under the same basis.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. *Williams et al* (USPN 6,721,286) disclose a method and apparatus for device interaction by format.
- b. *Bergman et al* (USPN 6,564,263) disclose a multimedia content description framework.
- c. *Yanai et al* (USPN 6,173,377) disclose remote data mirroring.

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d. *Gibson et al* (USPN 6,445,717) disclose a system for recovering lost information in a data stream.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds



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PRIMARY EXAMINER